

## **NOTICE OF PROPOSED RULEMAKING**

CHAPTER 845

OREGON LIQUOR CONTROL COMMISSION

FILING CAPTION: Administrative rule changes related to legislative changes and technical updates.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/23/2021 5:00 PM

HEARING(S):

DATE: 11/16/2021

TIME: 1:30 PM - 3:30 PM

OFFICER: Madeline Kane

ADDRESS: Virtual Public Hearing

9079 SE McLoughlin Ave.

Milwaukie, OR 97222

SPECIAL INSTRUCTIONS:

To listen to, or participate in, this

Public Hearing please call: 1 (872)

240-3412 and enter access code:

271-158-541#

In order to offer oral comment, please email: [OLCC.rulemaking@oregon.gov](mailto:OLCC.rulemaking@oregon.gov), no later than 1:00 pm on Tuesday November 16, 2021. The hearing will end at 2:00 pm, if no interested parties have emailed to offer comment by 1:00 pm that day; or 5 minutes after the last oral comment has been recorded into the record.

NEED FOR THE RULE(S):

The rules amendments and repeals in this package are required due to legislation passed at the 2021 Regular Legislative Session, and to correct technical errors in the rules. At the 2021 Legislative Session House Bills 2264, 2363, 2740 and 3344 and Senate Bills 406 and 750 were passed by the legislature. These bills required changes in the Oregon Liquor and Cannabis Commission's administrative rules. Below are the bills which passed and the rules that were impacted.

House Bill 2264

1. Amended ORS 471.175 to allow a full on-premises sales license to sell at retail and deliver factory-sealed containers of malt beverages, wine, and cider. This amendment requires changes to 845-006-0392 and 845-006-0396.

2. Amended ORS 471.178 to allow a limited on-premises sales license to sell at retail and deliver factory-sealed containers of malt beverages, wine, and cider. This amendment requires changes to 845-006-0392 and 845-006-0396.
3. Amended ORS 471.184 so that a full on-premises sales license and a limited on-premises sales license may sell at retail and deliver factory-sealed containers of malt beverages, wine, and cider at off-site locations with a temporary use of the annual license (TUAL) or catered event approval. This amendment requires changes to 845-005-0405 and 845-005-0410.
4. Amended ORS 471.282 to issue a direct shipper permit to a temporary sales licensee and to allow the licensee to deliver malt beverages, wine, and cider during the term of the temporary sales license. This amendment requires changes to 845-005-0417, 845-006-0392, and 845-006-0396.
5. Amended ORS 471.130 to include a driver license or ID card from a province or territory of Canada as acceptable ID when purchasing alcoholic beverages. This amendment requires changes to 845-006-0335.
6. Repealed ORS 471.478, and as such, abolished requirements to collect certain information from and to “tag” a keg of malt beverage sold to a consumer. This change requires the repeal of 845-006-0441.
7. Amended ORS 473.140, 473.150, and 473.170 to require some records to be kept for a period of three years instead of two years to align with other recordkeeping requirements. This amendment requires changes to 845-010-0170.
8. Amended ORS 471.400 to increase the time manufacturers and wholesalers may lease or furnish certain equipment to a nonprofit with a TSL from 10 days to approximately 14 days. This amendment requires changes to 845-013-0090.
9. Amended ORS 471.750 to address sign requirements in retail liquor stores, and amended ORS 471.805 to revise the amount of funds an agent must have on deposit. These amendments require changes to Chapter 845 Division 15 rules.

#### House Bill 2363

1. Allows some nonprofit TSL licensees to have unlimited locations on one application and allows up to 30 license days per application. This new allowance requires changes to 845-005-0440.

#### House Bill 2740

1. Adds an ORS to Chapter 471 and amends ORS 471.750 to address the Retail Sales Agent compensation schedule. This amendment requires changes to Chapter 845 Division 15 rules.

#### House Bill 3344

1. Amended ORS 471.805 to require agents to make deposits and report the receipts on a monthly basis. This amendment requires changes to Chapter 845 Division 15 rules.

#### Senate Bill 406

1. Amended ORS 471.282 to allow shipment of up to five cases of wine per month to a resident of

Oregon. This amendment requires changes to 845-006-0392.

#### Senate Bill 750

1. Amended ORS 471.297 to allow all applicants for a liquor license to be eligible for a temporary letter of authority to operate (ATO) and to extend the time period of the ATO from 90 days to 180 days. This amendment required changes to 845-005-0445.

#### Technical Changes

The agency is making technical changes to the administrative rules to correct mis-numbering, and to clarify definitions in 845-005-0331, 845-005-0416, and 845-006-0391.

#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

2021 Senate Bills 406 & 750 (available from the Oregon State Legislature)

2021 House Bills 2264, 2363, 2740, & 3344 (available from the Oregon State Legislature)

OLCC rulemaking files (available upon request from the OLCC.)

#### FISCAL AND ECONOMIC IMPACT:

This statement takes into account the fiscal impact on: (a) Licensees; (b) Local Government; (c) State Agencies; and (d) the Public.

##### (a) Licensees.

The required legislative changes in this package expand licensee delivery privileges, remove keg tagging requirements, add temporary sales opportunities and reporting requirements, and clarify and restructure retail sales agent's deposits and compensation schedules. The additional record keeping and deposit requirements may have a small fiscal impact on licensees and retail sales agents; however, as the rules are required by legislation the Commission cannot amend these rules. Rules in this package expand privileges for on-premises sales licensees and temporary licensees and decrease some documentation requirement; as a result, the Commission anticipates these additional privileges and opportunities and decreased documentation requirements to have a positive fiscal impact on licensees.

##### (b) Local Government.

The Commission expects the proposed amendments to have a neutral to positive impact upon local governing bodies. Updates made to temporary sales license applications may result in less paperwork and recordkeeping for local governments.

##### (c) State Agencies.

The Commission anticipates no new fiscal impact on other state agencies from the proposed amendments.

##### (d) The Public.

The Commission anticipates a neutral to minor fiscal impact on the public from the proposed amendments to the extent that the proposed amendments will impact consumers. Rules in this package increase access to alcoholic beverages as the legislation offers additional sale opportunities for licensees, however, as the rules are required by legislation the Commission cannot amend these rules.

## COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The Commission anticipates no new costs of compliance to comply with the proposed amendments for other state agencies, local governments or the public. Local Governments approve temporary sales licensees, and as the proposed amendments in this package update requirements for temporary sales licenses, local governments may be impacted. The Commission may face some impacts due to the proposed amendments as processes and applications will need to be updated to reflect legislative required privilege expansions.

### (2) Small Businesses

(a) The Commission has over 18,000 liquor licensees and over 280 liquor retail locations. These rules will have an impact on liquor licensees that engage in any of the following activities: Small businesses that make deliveries or shipments, sell kegs, furnish equipment to temporary sale licensees, maintain accurate records, agents operating liquor stores, and applicants who operate under a temporary authority to operate.

(b) Small businesses licensees will be required to maintain some records for an additional year, and may need to update their recordkeeping storage and processes to be compliant with proposed rule amendments. Liquor licensees who sell kegs will see a decrease in tag requirements. Retail sales agents will have new monthly sale receipt requirements which will necessitate recording and reporting updates for agents to remain in compliance.

(c) Small businesses may experience minor costs to increased labor and administration as recordkeeping requirements are being increased, however, these updates will not require licensees or agents to develop new records, only the length of time records are kept and the method they are reported will see changes. Additionally, these rules allow some licensees to furnish their equipment to non-profits under temporary sales licenses. This update will likely benefit manufacturers and wholesalers.

## DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Over the course of this rulemaking the Commission held an advisory committee meeting to collect suggestions and feedback for proposed rule amendments.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

## CONTACT:

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**RULES PROPOSED:**

845-005-0331, 845-005-0405, 845-005-0410, 845-005-0416, 845-005-0417, 845-005-0440, 845-005-0445, 845-006-0335, 845-006-0391, 845-006-0392, 845-006-0396, 845-006-0441, 845-010-0170, 845-013-0090, 845-015-0105, 845-015-0115, 845-015-0143, 845-015-0145, 845-015-0148, 845-015-0155, 845-015-0170, 845-015-0200

**AMEND:** 845-005-0331

**RULE TITLE:** Licensing Outdoor Areas Abutting a Licensed Building; Licensing Abutting Intermittent and Limited Duration Expansion Areas

**RULE SUMMARY:** This rule describes the licensing for abutting and expanded areas.

**RULE TEXT:**

(1) This rule applies to an outdoor area that abuts an applicant's or licensee's licensed building and establishes the licensing qualifications for such an outdoor area. This rule also establishes licensing requirements for expanding the premises to abutting indoor and outdoor areas for a limited duration or on an intermittent basis. This rule does not apply to Temporary Sales Licenses issued under OAR 845-005-0440; Special Events Brewery-Public House licenses issued under OAR 845-005-0414; Special Event Brewery Licenses issued under OAR 845-005-0412, Special Event Winery licenses issued under OAR 845-005-0415; Special Events Grower licenses issued under OAR 845-005-0415; Special Events Distillery licenses issued under OAR 845-005-0413; Small-Scale Private Catering licenses issued under OAR 845-005-0405; and Temporary Use of An Annual License licenses issued under 845-005-0410.

(2) The Commission shall refuse to license an outdoor area, and may cancel the license for an outdoor area, for any of the following reasons unless the applicant or licensee shows good cause that outweighs the refusal or cancellation basis:

(a) The outdoor area is controlled by a public entity and the public entity provides the Commission with written proof that the sale, service or consumption of alcohol in the outdoor area is not an authorized use under the applicable rules and regulations governing the public entity;

(b) The outdoor area is privately owned and the applicant or licensee fails to provide, as required by the Commission or upon request by the Commission, written proof of legal access to the outdoor area;

(c) The applicant or licensee fails to define the boundaries of the outdoor area;

(d) The applicant or licensee fails to demonstrate there is or will be adequate supervision of the outdoor area so as to prevent violations of the liquor laws; or

(e) The applicant or licensee will allow amplified entertainment in the outdoor area between 12:00 a.m. and 7:00 a.m. on the same calendar day.

(3) Abutting limited duration or intermittent expansion of licensed premises.

(a) For the purposes of this subsection of the rule:

(A) Limited duration means the licensee received authorization to use the expansion area as a part of the licensed business from the landowner for a period of 180 days or less.

(B) Intermittent means the licensee received authorization from the landowner to use the expansion area for something less than all days of the week.

(b) A licensee may expand its premises on a limited duration or intermittent basis to one expansion area that abuts the licensee's licensed premises to sell and serve alcohol at retail as allowed by the license provided the following are met:

(A) The licensee has the permission of the landowner (private or public) to use the expansion area and the licensee has defined the boundaries of the expansion area on a floor plan. Licensees must provide proof of permission to use the area and the floor plan for the expansion area to the Commission upon request (within 72 hours of the request).

(B) The licensee uses the expansion area only during the days and times approved by the landowner.

(C) A licensee shares the limited duration or intermittent expansion area with other licensees only if the licensees share the current licensed premises.

(c) Expansion areas used by the licensee as described in this section are part of the annually licensed premises during the days and times that the landowner has given the licensee permission to use the expansion area as a part of the business. Licensee is subject to all OLCC liquor laws and rules in the expansion area for the days and times of use of the area as a part of the licensed business. Licensee must cease the sale and service of alcohol in the limited duration or intermittent expansion area once the authorization from the landowner has expired.

(d) A licensee using an expansion area as described in this section must follow the regulations of all regulating bodies.

(e) No minor posting will be assigned to a limited duration or intermittent expansion area. However, if the licensee wants to expand the premises to an expansion area abutting the premises on a limited duration or intermittent basis, the licensee will ensure that either:

(A) The primary activity in the expanded area is patrons consuming food; or

(B) If the primary activity in the expanded area is not patrons consuming food, the area must not have a combination of several factors that would not be appropriate for minors, such as dim lighting and the conspicuous display of multiple alcohol signs, banners, and posters or entertainment that is not appropriate for minors.

(f) If the licensee holds a restricted license, the licensee must follow the restrictions in the limited duration or intermittent expansion area.

(g) For an expansion to an area abutting the premises that does not qualify as limited duration or intermittent, a licensee must submit a request to, and receive approval from, the Commission prior to exercising license privileges in the proposed area.

(h) Operation in an expansion area abutting the licensed premises without permission from the landowner is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.040, 471.730

STATUTES/OTHER IMPLEMENTED: ORS 471.001, 471.030, 471.159, 471.313, 471.315

AMEND: 845-005-0405

RULE TITLE: Full or Limited On-Premises Licensee Small-Scale Private Catering

RULE SUMMARY: This rule describes private catering events for Full and Limited On-Premises licensees.

RULE TEXT:

(1) ORS 471.184(1) allows the holder of a Full On-Premises Sales or Limited On-Premises Sales license, at locations other than the licensee's annually licensed premises when catering small-scale temporary events where the licensee will furnish food and beverage services for 100 or fewer guests of the catering client, to:

(a) Sell and serve the alcoholic beverages permitted by the license for on-premises consumption.

(b) Sell and deliver factory-sealed containers of malt beverages, wine, and cider direct to consumer for consumption off the licensed premises. Any deliveries must follow OAR 845-006-0392 and 845-006-0396.

(c) This rule refers to this type of catering as small-scale private catering.

(2) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(f) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery.



Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(3) For purposes of this rule, small-scale private catered events are events where:

(a) There is a contract between a client and the licensee to provide alcohol and food service for a specific number of guests or participants;

(b) The number of guests or participants is 100 or fewer;

(c) The licensee is not the client;

(d) Alcoholic beverage service is only in conjunction with food service; and

(e) The provision of alcohol at the catered event must not be more than one license day's duration unless the event is a closed conference or seminar.

(4) ORS 471.184(1) authorizes the Commission to grant pre-approval to provide the service of small-scale private catering. Applicants must apply in writing using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to beginning the service of small-scale private catering. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

(5) General pre-approval to provide the service of small-scale private catering shall not include any event at a particular location more than one license day per week, unless the event is a closed conference or seminar.

(6) An event that does not qualify as a small-scale private catered event under this rule must be approved as a large-scale private catered event or a temporary use of an annual license event under OAR 845-005-0410.

(7) The licensee's application for pre-approval to provide the service of small-scale private catering shall be made in writing and include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

(A) All events to prevent problems and violations;

(B) Patronage by minors as set out in subsection (8) of this rule; and

(C) Alcohol consumption by adults.

NOTE: An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (4) of this rule to refuse to process any application that is not complete;

(b) Identification of the counties and incorporated cities where the licensee will usually cater events authorized under this section;

(c) Identification of any proposed catering location that is owned or controlled by the licensee;

(d) Menu or sample menu showing type of food service proposed to comply with OAR 845-006-0462; and

(e) Identification of premises proposed to be licensed if the request is for specific future events.

(8) A plan for managing patronage by minors under subsection (7)(a) of this rule must meet the following requirements:

(a) If the catered event will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the catered event will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(9) Minors are prohibited from the catered licensed premises or portions of the catered licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(10) The Commission may deny, cancel or restrict temporary off-premises license use for small-scale private catering for any reason for which the Commission may deny, cancel or restrict a regular license.

(11) The Commission may deny, cancel, or restrict temporary off-premises license use for small-scale

private catering if the licensee has a serious violation history at small-scale private catering events within the past 36 months.

(12) Full On-Premises Sales or Limited On-Premises Sales licensees may engage in small-scale private catering without having received general pre-approval if the licensee first has given the Commission specific written notice of each event, which notice is received by the Commission within five calendar days of the event and includes the event date, duration, expected attendance, exact location, and a description of the type of event.

(13) When the Commission approves a written plan under subsection (7)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(14) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the small-scale private catering licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)  
STATUTES/OTHER IMPLEMENTED: ORS 471.184, 2021 OL Ch. 180

AMEND: 845-005-0410

RULE TITLE: Full or Limited On-Premises Licensee Large-Scale Private Catered Events and Temporary Use of an Annual License for Events at Another Location

RULE SUMMARY: This rule describes full or limited on-premises licensee large-scale private catered events and temporary use of an annual license for events at another location.

RULE TEXT:

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages on premises that the Commission has not licensed. ORS 471.405 establishes a prohibition on the sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages.

(2) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(f) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(3) ORS 471.184(1) allows the holder of a Full On-Premises Sales or Limited On-Premises Sales license, at locations other than the licensee's annually licensed premises at large-scale catered events or temporary use of an annual license events after having obtained prior written Commission approval, to:

- (a) Sell and serve the alcoholic beverages permitted by the license for on-premises consumption.
- (b) Sell and deliver factory-sealed containers of malt beverages, wine, and cider direct to consumer for consumption off the licensed premises. Any deliveries must follow OAR 845-006-0392 and 845-006-0396.
- (c) This rule refers to this type of events as either large-scale private catered events or temporary use of an annual license events.
- (4) For purposes of this rule, large-scale private catered events are events, such as weddings, receptions, conferences, company picnics and parties, and company sponsored events, that:
  - (a) Are not open to the general public. However, a large-scale private event may be open to the general public if the purpose of the event is fund raising for a charitable or nonprofit organization that is registered as such with Oregon's Secretary of State;
  - (b) Are catered for 101 or more guests or participants;
  - (c) Have a contract between the client and the licensee to provide alcohol and food service for a specific number of guests or participants;
  - (d) Have alcoholic beverage service as secondary to and in conjunction with food service at the event;
  - (e) Have the licensee not as the client; and
  - (f) Have the provision of alcohol at the catered event be not more than one license day's duration unless the event is a closed conference or seminar.
- (5) An event that doesn't qualify as a large-scale private catered event under this rule may be approved as a temporary use of an annual license event under this rule.
- (6) For purposes of this rule, temporary use of an annual license events are events at which the licensee:
  - (a) Does not have, or is not eligible for, pre-approval to provide the service of small-scale private catering as per OAR 845-005-0405; and
  - (b) Does not have, or is not eligible for, pre-approval to provide the service of large-scale private catering as per this rule.
- (7) Application. Applicants for events under this rule must apply in writing using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to beginning the service of large-scale private catering or prior to the date of the

temporary use event. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

(8) The Commission may grant pre-approval to provide the service of large-scale private catering for events that meet the requirements of section (4) of this rule. The licensee's application for pre-approval for future large-scale private catered events shall be made in writing and include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

(A) All events to prevent problems and violations;

(B) Patronage by minors as set out in subsection (10) of this rule; and

(C) Alcohol consumption by adults.

NOTE: An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (7) of this rule to refuse to process any application that is not complete;

(b) A brief description of the types of events to be catered;

(c) Identification of the counties and incorporated cities where the licensee will usually cater events authorized under this section; and

(d) Menu or sample menu showing type of food service proposed to comply with OAR 845-006-0462.

(9) The Commission does not grant pre-approval for the temporary use of an annual license for events at another location. The licensee may apply for approval of each temporary use of an annual license event as provided in this section. The licensee's application for the temporary use of an annual license at another location must be in writing and must be on a separate application form for each event. The Commission will not approve more than seven license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days. The application must include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

(A) All events to prevent problems and violations;

(B) Patronage by minors as set out in subsection (10) of this rule; and

(C) Alcohol consumption by adults.

NOTE: An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (7) of this rule to refuse to process any application that is not complete;

- (b) Identification of all individuals to be employed by the licensee to manage the premises proposed for license authority;
  - (c) Identification of the premises proposed to be licensed;
  - (d) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, and proposed hours of operation;
  - (e) A written proposal showing compliance with the food service standards of OAR 845-006-0462;
  - (f) The recommendation of the local governing body where the licensed premises will be located; and
  - (g) License fees as established by ORS 471.311.
- (10) A plan for managing patronage by minors under subsections (8)(a) and (9)(a) of this rule must meet the following requirements:
- (a) If the large-scale catered event premises or temporary use of an annual licensed premises will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.
  - (b) If the catered or temporary use of an annual licensed premises will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.
- (11) Minors are prohibited from the large-scale catered event premises or temporary use of an annual licensed premises or portions of the licensed premises as follows:
- (a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;
  - (b) Minors may not be in an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;
  - (c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.
- (12) The Commission may deny, cancel or restrict temporary off-premises license use for large-scale private catering or temporary use of an annual license for any reason for which the Commission may deny, cancel or restrict a regular license.
- (13) The Commission may deny or restrict temporary off-premises license use for large-scale private

catering or temporary use of an annual license events if the applicant has a serious violation history within the past 36 months.

(14) When the Commission approves a written plan under subsections (8)(a) or (9)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(15) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the large-scale private catering or temporary use licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.184(2), 2021 OL Ch. 180



AMEND: 845-005-0416

RULE TITLE: Delivery of Alcoholic Beverages to Individuals — Definitions

RULE SUMMARY: This rule defines terms for the delivery of alcoholic beverages to individuals.

RULE TEXT:

As used in OAR 845-005-0416 through 845-005-0426:

(1) The term “ship” means to cause the delivery or transport of malt beverages, wine or cider to either a resident of Oregon or a licensee of the Commission. The term “deliver” has a similar meaning and includes the transport and handing over of malt beverages, wine or cider to a resident or a licensee of the Commission. The terms ship and deliver may be used interchangeably.

(2) “For-hire carrier” means any person or company who holds itself out to the public as willing to transport property in return for compensation. The term “for-hire carrier” can include a common carrier.

(3) “Month” means a calendar month.

(4) “Resident of Oregon” means an individual residing in Oregon, even if only temporarily.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.282, 2021 OL Ch. 180

AMEND: 845-005-0417

RULE TITLE: Qualifications for Direct Shipper Permit

RULE SUMMARY: This rule describes the qualifications for a direct shipper permit.

RULE TEXT:

(1) A Direct Shipper Permit allows the delivery of only the type of alcohol allowed by the license that authorizes the person to hold a Direct Shipper Permit. Only the following persons may qualify for a Direct Shipper Permit:

(a) A person holding a temporary sales license issued under ORS 471.190, brewery-public house license issued under ORS 471.200, a brewery license issued under ORS 471.220, a winery license issued under ORS 471.223, or a grower sales privilege license issued under 471.227. These licenses are issued with a Direct Shipper Permit.

(b) A person holding a license issued by another state within the United States that authorizes the manufacture of malt beverages, wine, or cider. The person in the other state may deliver malt beverages only if that state allows Oregon licensees to deliver malt beverages directly to a resident of that state.

(c) A person holding a license issued by another state within the United States that authorizes the sale of wine or cider produced only from grapes or other fruit grown under the control of the licensee.

(d) A person holding a license issued by another state within the United States that authorizes the sale of malt beverages, wine, or cider at retail for consumption off the licensed premises. The person in the other state may deliver malt beverages only if that state allows Oregon licensees to deliver malt beverages directly to a resident of that state.

(2) Application for a Direct Shipper Permit. A person described under subsections (1)(b)–(d) of this rule must make application to the Commission and receive a Direct Shipper Permit from the Commission before shipping any malt beverages, wine or cider directly to a resident of Oregon. Applicants must apply in writing using the forms provided by the Commission and submit the required fee. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application that is not complete or not accompanied by the documents or disclosures required by the form or the Commission.

(3) The Commission may revoke or refuse to issue or renew a Direct Shipper Permit if the permit holder or applicant fails to qualify for the permit under this rule or a refusal basis applies under ORS Chapter 471 or any other rule of the Commission and good cause does not overcome the refusal basis.

(4) A Direct Shipper Permit issued under subsections (1)(b)–(d) of this rule must be renewed annually.

(a) If the person holds the permit based on a license issued by another state, the permit may be renewed by applying in writing using the forms provided by the Commission and submitting the required fee. The Commission may require additional forms, documents, or information as part of the application.

(b) If the person holds the permit based on an annual license issued by this state, the permit may be renewed at the same time that the license is renewed.

(5) Delivery. Permit-holders delivering malt beverages, wine, and cider to a resident of Oregon must follow the delivery requirements listed in OAR 845-006-0392 and 845-006-0396.

(6) The Commission may refuse to process any application required under this rule if the application is not complete and accompanied by the fee, documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS Chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.040, 471.186, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.155, 471.186, 471.282, 471.305, 2021 OL Ch. 180

AMEND: 845-005-0440

RULE TITLE: Temporary Sales Licenses

RULE SUMMARY: This rule describes temporary sales licenses.

RULE TEXT:

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages. ORS 471.405 establishes a prohibition on sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages. This rule sets the requirements for obtaining a Temporary Sales License.

(2) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity.

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food.

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$50 per license day or for any part of a license day.

(d) "Nonprofit trade association" means an organization comprised of individual or business members where the organization represents the interests of the members and is registered with the state of Oregon as a nonprofit association.

(e) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(f) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(g) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(3) ORS 471.190 authorizes the Commission to issue a Temporary Sales License. Temporary Sales Licenses are issued in increments of one license day. The Commission may issue a Temporary Sales

License only to applicants that qualify under the Commission's licensing standards and that are:

(a) A nonprofit or charitable organization that is registered with the state; or

(b) A political committee that has a current statement of organization filed under ORS 260.039 or 260.042; or

(c) An agency of the State; or

(d) A local government or an agency or department of a local government; or

(e) Any applicant not described in (3)(a)–(3)(d) of this subsection, including eligible licensees of the Commission.

(4) The Commission will not approve more than thirty license days on a single application submitted by an applicant identified in (3) (a), (c) or (d). The Commission may limit approval of any application to a single license day or to any number of license days fewer than thirty days.

(5) The Commission will not approve more than seven license days on a single application submitted by an applicant identified in (3) (b) or (e). The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days.

(6) A Temporary Sales License may authorize the licensee to sell wine, malt beverages and cider at retail for consumption on the licensed premises and for consumption off the licensed premises. All wine, malt beverages and cider sold for consumption off the licensed premises must be in either:

(a) Factory-sealed containers; or

(b) Securely covered containers provided by the consumer that do not hold more than two gallons each.

(7) A Temporary Sales License may authorize the licensee to sell distilled liquor by the drink at retail for consumption on the licensed premises.

(8) Applicants must apply in writing for a Temporary Sales License, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(9) The application for a Temporary Sales License under this rule shall include:

(a) A written and dated plan. An application is not complete if this plan is not approved by the

Commission. To approve a plan, the Commission must determine that the plan adequately manages:

(A) The event to prevent problems and violations;

(B) Patronage by minors as set out in subsection (10) of this rule; and

(C) Alcohol consumption by adults.

(b) Identification of the individuals to be employed by the licensee to manage events on the licensed premises;

(c) Identification of the premises proposed to be licensed;

(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;

(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) The recommendation in writing of the local governing body where the licensed premises will be located;

(g) License fees as established by ORS 471.311.

(10) A plan for managing patronage by minors under subsection (9) (a) of this rule must meet the following requirements:

(a) If the Temporary Sales License will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the Temporary Sales License will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(11) Minors are prohibited from the licensed premises or portions of the licensed premises as follows;

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there is video lottery games, social games, or nude entertainment or where such activities are visible.

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(12) Minimum Age of Servers. Alcohol servers at temporary sales licensed locations must be at least 21 years of age to sell or serve alcoholic beverages, with the following exceptions:

(a) In areas of the licensed premises not prohibited to minors, persons who are 18, 19, and 20 years of age may:

(A) Take orders for, serve and sell alcoholic beverages for on-premises consumption if the activity is incidental to the selling or serving of food in that area of the licensed premises, and may sell alcoholic beverages in factory-sealed containers for off-premises consumption; or

(B) Sell items, such as tokens or scrip, to be redeemed for alcoholic beverages or food at the event.

(b) In areas of the licensed premises prohibited to minors, persons who are 18, 19, and 20 years of age may deliver food, restock non-alcohol supplies and perform other non-alcohol related duties, however the person shall not remain in the prohibited area longer than is necessary to perform these duties.

(13) Alcohol servers at locations licensed under subsections (3)(b)–(e) of this rule must hold valid service permits unless specifically exempted under authority of subsection (12) of this rule.

(14) The Commission may waive the service permit requirement for the holder of a Temporary Sales License issued under subsections (3)(b)–(e) of this rule, and the licensee's alcohol servers, if:

(a) The license is used only for package sales; or if

(b) The Commission concludes alcohol service by individuals who do not hold a service permit does not pose a significant risk for public safety problems or non-compliance with liquor laws; and

(c) Each alcoholic beverage point-of-sale at the licensed location is staffed, at all times alcoholic beverages are being sold or served, by an individual who has completed a Server Education course successfully within 5 years prior to the date of the event.

(15) At events licensed under subsection (3)(a) of this rule, before allowing alcohol servers to sell or serve alcoholic beverages, the licensee must ensure that all alcohol servers have met one of the following standards:

(a) The alcohol server has a valid service permit or has successfully completed a Server Education course within 5 years prior to the date of the event, or

(b) The alcohol server has attended training provided by the licensee, and has read, signed and dated the Commission-provided brochure, What Every Volunteer Alcohol Server Needs to Know. The licensee-provided training must address the topics included in the brochure, including but not limited to: minors and proper checking of identification, and how to recognize and respond appropriately to visibly intoxicated persons. At any time while on duty, the alcohol server shall make the signed

brochure available for immediate inspection by any inspector or investigator employed by the Commission or by any other peace officer.

(16) If there are compliance problems with an operator or an event, the Commission may add other requirements for the education of servers at events licensed under this rule.

(17) The Commission may deny, cancel or restrict a Temporary Sales License for any reason for which the Commission may deny, cancel or restrict a regular license.

(18) The Commission may deny or restrict a Temporary Sales License if the applicant has a serious violation history at events previously licensed with a Temporary Sales License within the past 36 months.

(19) The Commission may refund the Temporary Sales License fee if the application is withdrawn by the applicant or denied by the Commission, if the event does not take place because of circumstances beyond the applicant's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

(20) When the Commission approves a written plan under subsection (9)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a category III violation.

(21) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

(22) A Temporary Sales License may authorize the licensee to deliver, or cause to be delivered, factory-sealed and securely-covered containers of malt beverages, wine, or cider direct to a resident of Oregon.

(a) Malt beverages, wine, or cider may only be delivered on a licensed day.

(b) A temporary sales licensee must comply with OAR 845-006-0392 for the delivery of wine or cider and must comply with OAR 845-006-0396 for the delivery of malt beverages.

(23) A Temporary Sales License issued under subsections (3)(a)(c) or (d) of this rule may have more than one address on a single license application as part of a single licensed premises, provided that all addresses are located within the same local government jurisdiction. The Commission may refuse to process an application containing addresses for more than one local government jurisdiction.

STATUTORY/OTHER AUTHORITY: ORS 471, ORS 471.030, 471.040, 471.190, 471.730(1), (5)  
STATUTES/OTHER IMPLEMENTED: ORS 471.190, 471.360, 471.482, 2021 OL Ch. 180, 2021 OL Ch. 115



AMEND: 845-005-0445

RULE TITLE: Temporary Letter of Authority to Operate

RULE SUMMARY: This rule details the requirements for a temporary letter of authority to operate.

RULE TEXT:

(1) The Commission may grant a temporary letter of authority to operate to any applicant for a license issued under ORS, Chapter 471 for a period not to exceed 180 days. The Commission may not extend the period of a temporary letter of authority to operate beyond 180 days and may not grant more than one temporary letter of authority to operate for the same application.

(2) To be eligible to obtain a temporary letter of authority to operate, an applicant must meet the requirements established by the Commission and pay the license fee.

(3) An applicant is eligible to exercise all of the privileges of the license under a valid temporary letter of authority to operate.

(4) The Commission may refuse to issue a temporary letter of authority to operate and may revoke a temporary letter of authority to operate if the Commission reasonably believes that any of the grounds for refusing a license under ORS 471.313, or any rules adopted thereunder, or canceling or suspending a license under ORS 471.315 exist. The refusal to issue or the revocation of a temporary letter of authority to operate is not a contested case under ORS chapter 183.

(5) A temporary letter of authority does not constitute a license for the purposes of ORS chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: 471.297, 2021 OL Ch. 85

AMEND: 845-006-0335

RULE TITLE: Age Verification; Minors on Licensed Premises

RULE SUMMARY: This rule explains acceptable forms of identification.

RULE TEXT:

(1) Age Verification:

(a) ORS 471.130 requires a licensee or permittee to verify the age of a person who wants to buy or be served alcoholic beverages when there is "any reasonable doubt" that the person is at least 21 years old. The Commission requires a licensee or permittee to verify the age of anyone who wants to drink alcoholic beverages, or is in an area prohibited to minors, if there is reasonable doubt that the person is at least 21 years old. "Reasonable doubt" exists if the person appears to be under the age of 26;

(b) Whenever a licensee or permittee verifies age, he/she must verify it as ORS 471.130 requires (statement of age card or the specified items of identification) and must reject any obviously altered document or one which obviously does not identify the person offering it;

(c) Licensees must require all their employees who sell, serve, oversee or control the sale or service of alcoholic beverages to verify age as subsection (a) of this section requires.

(d) Only the following forms of unexpired, unaltered, and legitimate identification are acceptable alone as proof of age:

(A) A driver license issued by a U.S. state, or the District of Columbia, or a province or territory of Canada;

(B) An identification card or driver license that has a picture of the person, the name of the person, the person's date of birth, and a physical description of the person and is issued by a U.S. state, the District of Columbia, or a territory of the U.S., or a province or territory of Canada;

(C) An identification card that has a picture of the person, the name of the person, the person's date of birth, and a physical description of the person and is issued by a federally recognized Indian tribe;

(D) A passport or passport card

(E) A U.S. military identification card; or

(F) An identification card that is proof of the person's participation in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program operated by United States Customs and Border Protection, the NEXUS program jointly operated by that agency and the Canada Border Services Agency, or a successor to either of those programs that is recognized by the Commission.

(2) Sanctions for Failure to Verify Age:

(a) The Commission will sanction a licensee or permittee who does not verify the age of a person who appears to be under the age of 26 only if the person:

(A) Actually is a minor who buys, is served or drinks an alcoholic beverage at the licensed premises (Category (IIb) violation); or

(B) Actually is a minor who is in an area of the licensed premises prohibited to minors (Category IV violation).

(b) If the Commission sanctions a licensee or permittee for one or more of the following violations under this rule: Failure to verify the age of a minor; Allowing a minor to drink; or Allowing a minor in an area prohibited to minors, the Commission will not sanction the licensee or permittee separately under ORS 471.130 or 471.410(2) for the same conduct. The Commission may charge a licensee or permittee for one or more violations under this rule and also charge violation of one or more of the statutes in the alternative.

(c) Failure to verify age as ORS 471.130 requires or to reject obviously altered or false identification is a Category (IIb) violation.

(3) Minors on Premises: General Prohibitions.

(a) No licensee, permittee, or licensee's employee will permit a minor:

(A) To drink any alcoholic beverage on licensed premises; or

(B) To be on licensed premises or an area of the licensed premises prohibited to minors, except as provided in ORS 471.430, 471.480, 471.482, OAR 845-006-0340 and this rule.

(b) The assigned minor posting(s) describes where on the premises minors are allowed or prohibited. See OAR 845-006-0340, Minor Postings.

(4) Minor Employee and Minor Service Permittee:

(a) A Number 1 minor posting. Minor employees and minor service permittees are prohibited from the entire licensed premises at all times.

(b) A Number 2 minor posting. Minor employees and minor service permittees may be in this area of the premises only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct in the area, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.

(c) A Number 3A, 4, 6, and 7 minor posting during the times when minors are prohibited. Minor employees and minor service permittees may be in areas of the premises during the times prohibited to them only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check

identification, control conduct in the area, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.

(d) A Number 3A, 4, 6, and 7 minor posting in the areas and during the times when minors are permitted. Minor employees and minor service permittees are permitted in the areas and during the times when minors are allowed. The primary duty of minor service permittees must be food service.

(e) A Number 3 minor posting. Minor employees and minor service permittees are allowed at all times in the area. The primary duty of minor service permittees must be food service.

(f) A Number 5 minor posting. Minor employees and minor service permittees are allowed at all times in the area.

(g) If a premises has one or more areas where minors are prohibited and one or more areas where minors are allowed, minor employees and minor service permittees may be in areas of the premises prohibited to them during the times prohibited to them only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct on the premises, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.

(5) Minor Vendor or Contractor. A minor, other than a licensee's employee, who has a legitimate business purpose, may be in the area of the licensed premises normally prohibited to minors. (For example, a minor who is a plumber may repair the plumbing in a prohibited area).

(6) Minor Entertainers:

(a) A minor entertainer may perform on a licensed premises, including in areas that are prohibited to minors.

(b) Licensees that allow minor entertainers to perform on the licensed premises where minors would normally be prohibited must maintain proof of the minor entertainer's identification and age on the premises, and make this information available for Commission inspection upon request. Acceptable forms of identification are set forth in Section 1(d) of this rule.

(c) If the minor entertainer stays on the premises when not performing, the minor entertainer must stay in an area where minors are permitted, such as an area with a Number 3 minor posting, or in an approved designated area set forth in subsection (6)(d). If a minor entertainer is not performing and is not in an area permitted to minors or in a Commission-approved designated area on the licensed premises, then the minor entertainer must leave the licensed premises.

(d) In order for licensees to allow minor entertainers in areas of the licensed premises that are prohibited to minors, the licensee must first obtain approval.

(A) To obtain approval, licensee must submit a plan, in a form and manner prescribed by the

Commission, showing all areas where minors will perform, and all areas designated for minors when not performing.

(B) When minor entertainers are on the premises, no alcohol service or consumption is permitted in the approved designated area where minor entertainers have been approved to stay when not performing.

(C) The Commission may refuse to provide approval for minor entertainers to perform at a licensed premises in areas prohibited to minors if it has a reasonable belief that licensee's proposed plan creates a compliance risk.

(D) If conditions become unsuitable, the Commission may revoke its approval.

(e) If the minor is under 18 years old, and the licensee proposes to employ that minor to conduct or assist in conducting any public dance, including but not limited to dancing by the child as a public performance, or to assist in or furnish music for public dancing, the licensee and minor must make sure the minor has the written permission of the appropriate juvenile court judge as required by ORS 167.840(2).

(f) If the minor is under 18 years old, and the licensee proposes to employ that minor to perform or entertain on the licensed premises in a capacity other than described in (6)(e) of this rule, before allowing the minor to perform on the licensed premises the licensee must apply for and receive prior written permission from the Administrator of the Oregon Liquor Control Commission, or the Administrator's designee. Application must be made upon a form supplied by the Commission. The Administrator or designee shall grant such permission only if:

(A) The parents or legal guardians of the minor have consented to the child's participation in such activity; and

(B) The Administrator or designee has found that participation in such activity will not be inconsistent with the health, safety and morals of the minor.

(g) Minors under 14 years old must also get a work permit if one is required by the Oregon Bureau of Labor and Industries.

(7) Minor Patron. If the licensee permits it, a minor may be in the immediate company of his/her spouse or Domestic Partner who is at least 21 years old. "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act. The minor must not buy, possess or drink alcoholic beverages.

(8) Sanctions: A violation of subsection (3)(a)(A) of this rule is a Category III violation. A violation of subsection (3)(a)(B) through section (7) of this rule is a Category IV violation.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.040, 471.430, 471.482, 471.730

STATUTES/OTHER IMPLEMENTED: ORS 471.130, 471.410, 471.430, 471.480, 471.482, 2021 OL



AMEND: 845-006-0391

RULE TITLE: Delivery of Alcoholic Beverages to Individuals — Definitions

RULE SUMMARY: This rule defines terms for the delivery of alcoholic beverages to individuals.

RULE TEXT:

As used in OAR 845-006-0391 through 845-006-0401:

(1) The term “ship” means to cause the delivery or transport of malt beverages, wine or cider to either a resident of Oregon or a licensee of the Commission. The term “deliver” has a similar meaning and includes the transport and handing over of malt beverages, wine or cider to a resident or a licensee of the Commission. The terms ship and deliver may be used interchangeably.

(2) “For-hire carrier” means any person or company who holds itself out to the public as willing to transport property in return for compensation. The term “for-hire carrier” can include a common carrier.

(3) “Month” means a calendar month.

(4) “Resident of Oregon” means an individual residing in Oregon, even if only temporarily.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.282, 2021 OL Ch. 180

AMEND: 845-006-0392

RULE TITLE: Requirements for Delivery of Wine and Cider to a Resident of Oregon

RULE SUMMARY: This rule sets the requirements for delivery of wine and cider to residents of Oregon.

RULE TEXT:

(1) A person may sell for delivery wine or cider to a resident of Oregon only if the person holds:

(a) A valid Direct Shipper Permit and holds a license issued by this state or another state that authorizes the person to hold a Direct Shipper Permit; or

(b) An off-premises sales, full on-premises sales, or limited on-premises sales license issued by the Commission; or

(c) A full on-premises sales or limited on-premises sales license and is operating under a temporary use of the annual license or a catering pre-approval as per OAR 845-005-0405 and OAR 845-005-0410.

(2) A person holding a Direct Shipper Permit or an off-premises sales, full-on premises sales, limited on-premises sales, temporary use of annual license, or catering pre-approval must retain a record for a minimum of eighteen months of the amount of wine or cider contained in each order sold for delivery to the resident.

(3) A person holding a Direct Shipper Permit or an off-premises sales, full-on premises sales, limited on-premises sales, temporary use of annual license, or catering pre-approval may deliver or cause delivery of wine or cider as follows:

(a) Only in containers not exceeding two gallons.

(b) Only to a resident of Oregon who is at least 21 years of age and only if the wine or cider is for personal use and not for the purpose of resale;

(c) Only for delivery to a resident who is not visibly intoxicated at the time of receiving the wine or cider;

(d) The wine or cider is in a container conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the Commission;

(e) Only pursuant to an order for wine or cider that is received by the permit holder or licensee and paid for by the resident prior to removal from the licensed or permitted premises for delivery to the resident;

(f) To a home or business where the home or business has a permanent street address; or

(g) To a location that is within 100 feet of the boundary of the licensed premises.



(h) If the container is a securely-covered container it must be an empty container supplied by the resident. The permit holder or licensee may sell an empty container to the resident prior to or at the time of filling the container.

(4) If the permit holder or licensee delivers via a for-hire carrier, the permit holder and or licensee must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424 and must comply with all other requirements of this rule applicable to the permit holder or licensee. When a permit holder or licensee uses a for-hire carrier to deliver wine or cider to a resident of Oregon, the permit holder or licensee may be held responsible for the for-hire carrier's failure to follow the requirements of OAR 845-005-0424.

(5) If the permit holder or licensee does not use a for-hire carrier, in addition to complying with all other requirements of this rule applicable to the permit holder or licensee, the person making the delivery of the wine or cider must:

(a) Be age 18 or over;

(b) Verify that the person receiving the alcohol is at least 21 years of age;

(c) Determine that the person receiving the alcohol is not visibly intoxicated; and

(d) Collect information that must be retained by the permit holder or licensee for a minimum of eighteen months from the date of delivery of the alcohol to the resident. The information retained must include:

(A) The date and time the alcohol was delivered to the resident;

(B) The name or information that can be used to determine the name of the person delivering the alcohol to the resident; and

(C) The name, signature, and delivery address of the person receiving the alcohol.

(6) Delivery.

(a) A permit holder, in addition to complying with all other requirements of this rule applicable to the permit holder, must:

(A) Ensure that the wine or cider is delivered between the hours of 7:00 am and 10:00 pm.

(B) Deliver not more than a total of two cases of cider containing not more than nine liters per case per day to a resident of Oregon and may not deliver more than a total of two cases of cider containing not more than nine liters per case per month to the same resident.

(C) Deliver not more than a total of five cases of wine containing not more than nine liters per case per day to a resident of Oregon and may not deliver more than a total of five cases of wine containing not

more than nine liters per case per month to the same resident.

(b) An off-premises sales, full on-premises sales and limited on-premises sales licensee, (including those operating with a temporary use of annual license or catering pre-approval), in addition to complying with all other requirements of this rule applicable to the licensee, must:

(A) Ensure that the wine or cider is delivered between the hours of 7:00 am and 10:00 pm. Despite this requirement, an off-premises sales licensee must ensure the wine or cider is delivered between the hours of 6:00 am to 10:00 pm.

(B) Deliver not more than a total of two cases of cider containing not more than nine liters per case per day to a resident of Oregon.

(C) Deliver not more than a total of five cases of wine containing not more than nine liters per case per day to a resident of Oregon.

(7) A permit holder must:

(a) Allow the Commission to audit the permit holder's records of wine and cider delivered to Oregon residents upon request and shall make those records available to the Commission in Oregon no later than 60 days after the Commission mails the notice;

(b) Report to the Commission all deliveries of wine or cider made to a resident of Oregon under the permit as required by ORS Chapter 473. The report must be made in a form prescribed by the Commission; and

(c) Timely pay to the Commission all taxes imposed under ORS Chapter 473 on wine and cider sold and delivered directly to a resident of Oregon under the permit. For the purpose of the privilege tax imposed under ORS Chapter 473, all wine or cider sold and delivered pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for the tax to the Commission.

(8) If the permit holder is located in a state outside of Oregon, it consents to the jurisdiction of the Commission and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.

(9) A violation of section (7) of this rule is a Category IV violation. A violation of any other section of this rule is a Category III violation. In lieu of a criminal citation, the Commission may assess an administrative penalty for delivering wine or cider without a valid Direct Shipper Permit in violation of section (1) of this rule against any Oregon license held by the shipper, including a Certificate of Approval issued pursuant to ORS 471.244.

STATUTORY/OTHER AUTHORITY: E.O. 20-07, 471.030, 471.040, 471.186, ORS 471, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.186, 471.282, 473, 2021 OL Ch. 180, 2021 OL Ch.

AMEND: 845-006-0396

RULE TITLE: Requirements for Delivery of Malt Beverages to a Resident of Oregon

RULE SUMMARY: This rule describes the requirements for delivery of malt beverages to residents of Oregon.

RULE TEXT:

(1) A person may sell for delivery malt beverages to a resident of Oregon only if the person holds:

(a) A valid Direct Shipper Permit and holds a license issued by this state or another state that authorizes the person to hold a Direct Shipper Permit; or

(b) An off-premises sales, full on-premises sales, or limited on-premises sales license; or

(c) A full on-premises sales or limited on-premises sales license and is operating under a temporary use of the annual license or a catering pre-approval as per OAR 845-005-0405 and OAR 845-005-0410.

(2) A person holding a Direct Shipper Permit or an off-premises sales, full on-premises sales, limited on-premises sales, temporary use of annual license, or catering pre-approval may deliver or cause delivery of malt beverages as follows:

(a) Only in containers not exceeding two gallons.

(b) Only to a resident of Oregon who is at least 21 years of age and only if the malt beverage is for personal use and not for the purpose of resale;

(c) Only for delivery to a resident who is not visibly intoxicated at the time of receiving the alcohol;

(d) The malt beverage must be in a package that is conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the Commission;

(e) Only pursuant to an order for malt beverage that is received by the licensee or permittee and paid for by the resident prior to removal from the licensed or permitted premises for delivery to the resident;

(f) To a home or business where the home or business has a permanent street address; or

(g) To a location that is within 100 feet of the boundary of the licensed premises.

(h) If the container is a securely-covered container it must be an empty container supplied by the resident. The permit holder or licensee may sell an empty container to the resident prior to or at the time of filling the container.

(3) A permit holder or licensee must retain a record for a minimum of eighteen months of the amount of malt beverage contained in the shipment to the resident.

(4) If the permit holder or licensee delivers via a for-hire carrier, the permit holder and licensee must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424 and must comply with all other requirements of this rule applicable to the permit holder or licensee. When a permit holder or licensee uses a for-hire carrier to deliver malt beverages to a resident of Oregon, the permit holder or licensee may be held responsible for the for-hire carrier's failure to follow the requirements of OAR 845-005-0424.

(5) If the permit holder or licensee does not use a for-hire carrier, in addition to complying with all other requirements of this rule applicable to the permit holder or licensee, the person delivering the malt beverage must:

(a) Be age 18 or over;

(b) Verify that the person receiving the alcohol is at least 21 years of age;

(c) Determine that the person receiving the alcohol is not visibly intoxicated; and

(d) Collect information that must be retained by the licensee for a minimum of eighteen months from the date of delivery of the alcohol to the resident. The information retained must include:

(A) The date and time the alcohol was delivered to the resident;

(B) The name or information which can be used to determine the name of the person delivering the alcohol to the resident; and

(C) The name, signature, and delivery address of the person receiving the alcohol.

(6) Delivery. A permit holder and an off-premises sales, full on-premises sales, limited on-premises sales, (including those operating with a temporary use of annual license or catering pre-approval), in addition to complying with all other requirements of this rule applicable to the permit holder or licensee, must:

(a) Ensure that the malt beverages are delivered between the hours of 7:00 am and 10:00 pm. Despite this requirement, an off-premises sales licensee must ensure the malt beverages are delivered between the hours of 6:00 am to 10:00 pm.

(b) If an off-premises sales, full on-premises sales, limited on-premises sales, (including those operating with a temporary use of annual license or catering pre-approval), deliver not more than a total of two cases of malt beverages containing not more than nine liters per case per day to a resident of Oregon.

(c) If a permit holder, deliver not more than a total of two cases of malt beverages containing not more than nine liters per case per day to a resident of Oregon and may not deliver more than a total of two cases of malt beverage containing not more than nine liters per case per month to the same resident.

(7) A permit holder must:

(a) Allow the Commission to audit the permit holder's records of malt beverage deliveries to Oregon residents upon request and shall make those records available to the Commission in Oregon no later than 60 days after the Commission mails the notice;

(b) Report to the Commission all deliveries of malt beverage made to a resident of Oregon under the permit as required by ORS Chapter 473. The report must be made in a form prescribed by the Commission; and

(c) Timely pay to the Commission all taxes imposed under ORS Chapter 473 on malt beverage sold and delivered directly to a resident of Oregon under the permit. For the purpose of the privilege tax imposed under ORS Chapter 473, all malt beverage sold and delivered pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for the tax to the Commission.

(8) If the permit holder is located in a state outside of Oregon, it consents to the jurisdiction of the Commission and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.

(9) A violation of section (7) of this rule is a Category IV violation. A violation of any other section of this rule is a Category III violation. In lieu of a criminal citation, the Commission may assess an administrative penalty for delivering malt beverage without a valid Direct Shipper Permit in violation of section (1) of this rule against any Oregon license held by the shipper, including a Certificate of Approval issued pursuant to ORS 471.244.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.040, 471.730(1), 471.730(5), E.O. 20-07

STATUTES/OTHER IMPLEMENTED: ORS 471.305, 2021 OL Ch. 180

REPEAL: 845-006-0441

RULE TITLE: Sale of Malt Beverages in Kegs

RULE SUMMARY: This rule describes requirements for the sale of kegs.

RULE TEXT:

- (1) Before selling a keg of malt beverages as ORS 471.478 allows, a licensee will:
  - (a) Complete a Receipt for Sale of Malt Beverages in Kegs to Unlicensed Group or Individual (Form 760);
  - (b) Have the purchaser read and sign the receipt;
  - (c) Give the purchaser a copy of the signed receipt;
  - (d) Make sure the information on the receipt is accurate; and
  - (e) Securely attach a Commission-issued, serially-numbered identification label (keg tag) to each keg.
- (2) If the licensee has reason to question the purchaser's legal age or identity, the licensee will ask the purchaser for two additional pieces of identification. One of these pieces must include the purchaser's physical description or picture, date of birth, and signature.
- (3) A licensee must keep the original of the receipt (Form 760) for one year.
- (4) The licensee must allow an authorized representative of the Commission or any person authorized under ORS 471.605 to inspect receipts and keg tags at any time during the licensee's business hours.
- (5) The Receipt for Sale of Malt Beverages in Kegs to Unlicensed Group or Individual (receipt) will be completed by the licensee. The licensee is required to verify the following information on the receipt:
  - (a) Name, address, date of birth and phone number of the purchaser, the driver's license number of the purchaser, license state of issue, and, if necessary under section (2) of this rule, other identification verifying the name, address, physical description and date of birth of the purchaser;
  - (b) The license plate number of the vehicle in which the keg(s) will be transported. (For purposes of this rule, "automobile registration" as required by ORS 471.478 is the license plate number of the vehicle in which the keg(s) will be transported);
  - (c) The year, make, type, color, and state of registration (Oregon, California, Washington, for example) of the vehicle in which the keg(s) will be transported;
  - (d) The precise location (for example: street address, geographic location within a park) where the malt beverages will be consumed;
  - (e) A sworn, signed statement that the information given in the receipt is true and correct, and a

warning about penalties for false swearing and failure to obey Oregon liquor laws;

(f) A signature block and certification by the seller stating that the seller checked the purchaser's identification and the identifying information regarding the vehicle in which the keg(s) will be transported.

[ED. NOTE: Forms referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.478

AMEND: 845-010-0170

RULE TITLE: Maintaining Records: Manufacturers, Wholesalers, Importers

RULE SUMMARY: This rule addresses record keeping requirements.

RULE TEXT:

(1) The Commission requires every manufacturer, wholesaler, or importer of wine or malt beverages, including wineries and brewery public houses, to keep certain records so the Commission can assure appropriate privilege tax payment and compliance with financial assistance laws.

(2) A manufacturer, wholesaler or importer must keep a record of:

(a) Wine and malt beverage purchases, including:

(A) Sources of purchases and dates received in units by brand and container size;

(B) A classification of dollar amounts as cash or credit;

(C) A record of subsequent account payments; and

(D) An indication of whether the percent of alcohol by volume is under or over 14 percent on wine.

(b) Sales and deliveries to any licensee within Oregon, including:

(A) Daily sales and deliveries in units by brand and container size;

(B) Classification of dollar amounts as cash or credit;

(C) A record of subsequent account collections;

(D) Supporting sales invoices filed by days and bearing the purchaser's true name;

(E) An indication of whether the percent of alcohol by volume is under or over 14 percent on wine;  
and

(F) Any rebate, discount or allowance for empty container returns.

(3) In addition to the requirements in section (1) of this rule:

(a) A manufacturer, winery or brewery public house must keep a record of the amount of wine or malt beverages produced;

(b) A winery must keep a daily record of retail sales including the total dollar amount of each day's sales and the quantity of each sale by variety; and

(c) A wholesaler must record the purchaser's name, address and telephone number on the invoice of any dock sale that ORS 471.235 allows.



(4) A manufacturer, wholesaler or importer must:

(a) Complete a physical inventory by brand and size of container following the close of business on the last day of February, June and October; and

(b) Adjust the book inventories to agree with the physical inventory for each of these months with satisfactory explanations of differences.

(5) The manufacturer, wholesaler or importer must send the Commission reports that summarize the information in sections (2), (3) and (4) of this rule in a form and within a timeframe prescribed by the Commission.

(6) Every wholesaler, manufacturer or importer of wine or malt beverages must maintain records of all salaries, wages, expenses, allowances, bonuses, cash disbursements, gratuities and gifts, in any form, paid to any non-licensee customer, employee or agent. In addition, a wholesaler, manufacturer or importer must keep an itemization of all advertising items charged to advertising within Oregon. Receipts, vouchers or other evidence of obligation must support all these disbursements.

(7) Every wholesaler, manufacturer or importer within Oregon and every out-of-state manufacturer must keep the records that sections (2), (3), (4) and (6) of this rule require for three years and have them available for inspection by authorized representatives of the Commission after 72 hours notice to the licensee or the licensee's agent.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471 & 473, including 471.030, 471.392 - 471.402, 473.140 - 473.160, 2021 OL Ch. 180

AMEND: 845-013-0090

RULE TITLE: Wholesale-Retail Relations: Non-Profit Temporary Sales Licenses

RULE SUMMARY: This rule describes the relationship between wholesalers and retailer in a non-profit sales context.

RULE TEXT:

- (1) ORS 471.400(1) permits the Commission to allow manufacturers and wholesalers to provide products and services to non-profit Temporary Sales licensees without violating financial assistance laws. These products and services are allowed in addition to the gratuities, point of sale material, items of nominal value and services of nominal value that OAR 845-013-0001 through 845-013-0070 allow.
- (2) Federal Law May Differ. Although Oregon law allows manufacturers and wholesalers to provide the products and services described in this rule, federal laws regarding wine may not. When dealing with wine, a federal law that is more strict than an Oregon law takes precedence over the Oregon law. Therefore, manufacturers and wholesalers should check with the Federal Alcohol and Tobacco Tax and Trade Bureau before applying this rule to their wine business.
- (3) Products and Services. A manufacturer or wholesaler may provide the following to a non-profit Temporary Sales licensee:
  - (a) Any product the manufacturer or wholesaler normally sells. The manufacturer or wholesaler may give the product free, sell the product at a discount or sell the product at the regular price. The manufacturer or wholesaler may pick up excess malt beverage product at the end of a special event held by a non-profit Temporary Sales licensee, and if the product was sold to the Temporary Sales licensee, may give a credit or cash refund for the returned product;
  - (b) Any services to support the alcoholic beverage product. This includes providing employees to sell or serve alcoholic beverages at the Temporary Sales license event as long as the employee has successfully completed an approved alcohol server education course within the last five years or has a valid service permit; and
  - (c) Banners for interior or exterior display at the licensed premises that advertise a special event and prominently display the manufacturer's or wholesaler's alcoholic beverage brand name. These banners may be displayed before and during the Temporary Sales license event and may exceed 630 square inches.
- (4) Limitations. A manufacturer or wholesaler may provide the products and services that this rule allows only if the Temporary Sales licensee is a non-profit or charitable organization that is registered with the state, a political committee that has a current statement of organization filed under ORS 260.039 or 260.042, an agency of the State, or a local government or an agency or department of a local government
- (5) Equipment. ORS 471.400(1) also allows a manufacturer or wholesaler to provide the following equipment to any retail licensee: picnic pumps, cold plates, tubs, refrigerated trailers, refrigerated vans and refrigerated draft systems. The manufacturer or wholesaler may provide this equipment only for a period not to exceed 14 days or for a period that is reasonable for the equipment to be set up at or

removed from the site of the special event and for a reasonable rental or service fee. The statute allows a manufacturer or wholesaler to provide this equipment to any retail licensee for a reasonable fee. A manufacturer or wholesaler does not have to require a reasonable fee when providing this equipment to a non-profit temporary sales licensee.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.400(2), 2021 OL Ch. 180

REPEAL: 845-015-0105

RULE TITLE: Types of Retail Liquor Stores

RULE SUMMARY: This rule described types of liquor stores that are no longer current.

RULE TEXT:

(1) A retail liquor store is either exclusive or non-exclusive. In an exclusive retail liquor store, a retail sales agent sells only distilled spirits and related items authorized by OAR 845-015-0143. In a non-exclusive retail liquor store, a retail sales agent operates a retail liquor store as an adjunct to another business. A retail sales agent must secure Commission approval for a retail liquor store's association with another business.

(2) The Commission may change the type of a retail liquor store from exclusive to non-exclusive or non-exclusive to exclusive. In making a type change, the Commission evaluates various factors, including retail liquor store sales, business plan and customer service. The procedures in OAR 845-015-0110 apply to such changes.

(3) When the Commission changes a retail liquor store from one type to another, the retail sales agent has the right to continue as retail sales agent after the change.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.750(1)

AMEND: 845-015-0115

RULE TITLE: Retail Sales Agent Eligibility

RULE SUMMARY: This rule details retail sales eligibility

RULE TEXT:

(1) A retail sales agent who is an individual person must be at least 21 years old. Retail sales agents must devote enough time to a retail liquor store to ensure its efficient operation and reasonable service to the public.

(2) A retail sales agent may not have a financial interest or business connection that ORS 471.710(3) or OAR 845-015-0118 prohibits.

(3) A retail sales agent may be an Off-Premises Sales licensee.

(4) A retail sales agent may be a Limited On-Premises Sales licensee provided that the premises with the license is in a different physical location and address from the retail liquor store.

(5) A retail sales agent may not be a Full On-Premises Licensee.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.730

STATUTES/OTHER IMPLEMENTED: ORS 471.750, 2021 OL Ch. 180, 2021 OL Ch. 620, 2021 OL Ch. 186

AMEND: 845-015-0143

RULE TITLE: Sale of Non-Liquor Items

RULE SUMMARY: This rule describes the non-alcohol items that can be sold in retail stores.

RULE TEXT:

(1) In a retail liquor store, the retail sales agent may sell distilled spirits distributed by the Commission and non-liquor items. The Commission may require items to be removed that are objectionable.

(2) A retail sales agent must secure Commission approval for a retail liquor store's placement in another business.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.750(1), 2021 OL Ch. 186, 2021 OL Ch. 180, 2021 OL Ch. 620

AMEND: 845-015-0145

RULE TITLE: Solicitation; Incentives

RULE SUMMARY: This rule describes solicitations and incentives.

RULE TEXT:

(1) A retail sales agent may seek business from any business or Full On-Premises Sales licensee, including any employee or representative by:

(a) Describing a retail liquor store and its services orally, by flyer, personal letter or business card; and

(b) Inviting a potential business or Full On-Premises Sales licensee customer to visit a retail liquor store.

(2) A retail sales agent must not:

(a) Solicit, ask, suggest or urge anyone except a Full On-Premises Sales licensee or other business to make a purchase at a particular retail liquor store;

(b) Give or offer any gift, gratuity, special individualized discount or other incentive to any person if such can be reasonably construed to be an enticement to obtain, maintain, or increase the recipient's business with the retail sales agent.

(3) A retail sales agent must keep accurate records of liquor and non-liquor purchases and must make those records available to the Commission on request as required in the Retail Sales Agent Agreement.

(4) A retail sales agent must sell Commission merchandise at the Commission's established price.

(5) A retail sales agent may deliver alcoholic liquor or related items only to a Full On-Premises Sales licensee's premises as provided in and consistent with the Retail Sales Agent Agreement and the Commission's Retail Operations Manual.

STATUTORY/OTHER AUTHORITY: ORS 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.750, 2021 OL Ch. 180, 2021 OL Ch. 186, 2021 OL Ch. 620

AMEND: 845-015-0148

RULE TITLE: Minors in Liquor Stores

RULE SUMMARY: This rule describes minors in liquor stores.

RULE TEXT:

(1) Except as provided in (2) below, only people 21 years of age or older may enter a retail liquor store, unless accompanied by a parent, spouse or Domestic Partner who is at least 21 years old. "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act. Nevertheless, people 18 years or older may be employed in liquor stores to sell distilled spirits and people under the age of 18 may be employed but may not participate in the sale of distilled spirits.

(2) A retail sales agents may apply to the Commission for an exception to the requirements of (1) of this rule by submitting a control plan to the Commission. The Commission may approve such a control plan if it contains sufficient measures to ensure that minors will not have access to distilled spirits. The Commission may revoke the exception by providing written notice that the previously approved control plan is no longer sufficient.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.750(1), 2021 OL Ch. 186, 2021 OL Ch. 620, 2021 OL Ch. 180



AMEND: 845-015-0155

RULE TITLE: Distilled Spirit Tasting in a Retail Liquor Store

RULE SUMMARY: This rule describes distilled spirit tasting in a retail liquor store

RULE TEXT:

(1) The Commission allows sponsors to conduct distilled spirits tastings in retail liquor stores at the sole discretion of the retail sales agent for the purpose of promoting the sponsor's products. For purposes of this rule, "sponsors" are: Oregon Distillery licensees, out-of-state manufacturers of distilled spirits, importers of distilled spirits, distillery representatives, and the employees or agents of Distillery licensees, out-of-state manufacturers, importers, and distillery representatives. Tastings are subject to the requirements and limits described in this rule.

(2) Tasting Sizes, Number of Samples per Participant. The size of each distilled spirits tasting shall be no more than one-quarter fluid ounce of distilled spirits in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A sponsor may not provide more than one-half ounce total of distilled spirits per participant per day.

(3) The distilled spirits product(s) provided for tastings must be available for sale at the retail liquor store where and when the tasting occurs.

(4) Identified Tasting Area. Retail sales agents who allow tastings at their retail liquor store must identify a specific tasting area. The area must be of a size and design such that the person(s) conducting the tasting can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol. Customers must remain in the tasting area until they have finished consuming the sample(s). The retail sales agent must identify the tasting area, and keep a current floor plan on file

(5) Duration of Tastings Allowed. Tastings are limited to a maximum of three consecutive hours per sponsor per retail liquor store per day. Only one sponsor at a time may conduct sample tastings in a retail liquor store.

(6) Server Requirements. Alcohol servers must have valid Oregon service permits.

(7) Record Keeping. The sponsor must keep a record of each tasting they conduct, including the date and location of each event, the products served, and the names of the servers. The sponsor must retain records of tastings for one year.

(8) Sponsor responsibilities. Sponsors must:

(a) Provide the distilled spirits product to be tasted, and remove any remaining product at the end of the tasting;

(b) Provide or pay for a person to serve the distilled spirits being tasted. The server must be a sponsor or an employee or agent of the sponsor;

(c) Not compensate the retail sales agent, or any employee or agent of the retail sales agent to participate in the tasting.

(9) Retail Sales Agent Responsibilities. Retail sales agents are responsible for liquor law violations occurring in the retail liquor store which are not related to tastings.

(10) Violations Associated with the Tasting. In the case of a liquor law violation associated with tasting (for example, service of a sample to a minor or a visibly intoxicated person), both the server and the sponsor may be held responsible for violations of Oregon liquor laws which occur due to or during the tasting. Violations which occur due to a sponsor or server violating the law will not be charged to the retail sales agent.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.750, 2021 OL Ch. 186, 2021 OL Ch. 620, 2021 OL Ch. 180

AMEND: 845-015-0170

RULE TITLE: Payment for Distilled Spirits

RULE SUMMARY: This rule describes payments for distilled spirits.

RULE TEXT:

(1) Timing of Payment for Distilled Spirits Purchases. Payment for distilled spirits must be made at the time of purchase. If the purchaser is a Full On-Premises Sales licensee, and the distilled spirits being purchased are to be delivered, payment must be received at the liquor store not later than the store's close of business on the same day that the product was delivered to the licensee.

(2) A retail sales agent accepts these forms of payment:

(a) United States currency or a United States traveler's check;

(b) A cashier's check or money order;

(c) A licensee's business check for the amount of the purchase only, properly dated, personalized and free of alterations;

(d) A personal check from a non-licensee with either a valid driver's license with photo or valid DMV Identification card with photo, name, date of birth and physical description. The check must be under \$200, payable to the OLCC, for the amount of purchase only, properly dated, personalized and free of alterations; and

(e) Retail sales agents shall accept debit and credit cards from non-licensees using equipment that meets or exceeds Commission approved standards as set forth in the Retail Operations Manual.

(3) A retail sales agent must not accept a check for purchases by a licensee who has given the Commission two checks or other instruments that could not be paid upon presentation.

(4) Despite section (2) of this rule, a retail sales agent is not required to accept payment if a sale is contrary to law, if a customer lacks necessary age identification or if there is a reasonable basis to believe a customer is not lawfully presenting payment.

(5) A retail sales agent may elect to not take personal checks from non-licensees only if the retail sales agent accepts debit and credit cards using equipment that meets or exceeds Commission approved standards as set forth in the Retail Operations Manual. A retail sales agent must pay the Commission for any uncollected check from a non-licensee.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.740, 471.750(1), 2021 OL Ch. 180, 2021 OL Ch. 186, 2021 OL Ch. 620

REPEAL: 845-015-0200

RULE TITLE: Satellite Liquor Stores Pilot Program

RULE SUMMARY: This rule describes satellite liquor stores pilot program.

RULE TEXT:

(1) Purpose. The Satellite Liquor Stores Pilot Program is a program wherein the Oregon Liquor and Cannabis Commission (Commission) appoints retail sales agents on a temporary basis to operate Pilot Satellite Liquor Stores under the terms set forth in this rule. Pilot Satellite Liquor Stores are non-exclusive retail liquor stores located in smaller communities where there is a fluctuating, seasonal demand for an additional small outlet due to tourism or other similar factors. The purpose of the Pilot Program is to obtain data on the efficacy of operating such satellite stores in these areas. In connection with the Pilot Program, the Commission will collect data on a variety of subjects, including but not limited to: the economic viability (profitability) of the Pilot Program business model for the Pilot Program Agent and the state of Oregon; public safety impacts on the community; and public response to the program including customer satisfaction and convenience.

(2) Definitions. The following definitions apply only to this rule:

(a) The Satellite Liquor Stores Pilot Program is called the Pilot Program.

(b) The agent appointed to the pilot agency is called a Pilot Program Retail Sales Agent, or Pilot Program Agent. Pilot Program Agent is a retail agent who currently operates a Liquor Store (the "Primary Liquor Store") in the community where the Pilot Satellite Liquor Store is located.

(c) Pilot Program Retail Sales Agent Agreement or Pilot Program Agreement is the agreement between the Pilot Program Agent and the Oregon Liquor and Cannabis Commission.

(d) The location where the Commission appoints a retail sales agent on a temporary basis to operate a Liquor Store is called a Pilot Satellite Liquor Store.

(e) Liquor Store means a retail sales agency of the Oregon Liquor and Cannabis Commission.

(3) Number of Pilot Liquor Stores; Factors Considered when Siting Pilot Liquor Stores. The Pilot Program will consist of up to six new Pilot Satellite Liquor Stores to be selected within 12 months of the start of the Pilot Program. The Commission will consider the following factors in determining the locations of Pilot Satellite Liquor Stores:

(a) Population fluctuations, changes in consumer traffic patterns, and/or increased demand within a community during seasonal or peak periods due to tourism or other similar factors;

(b) Distance of the proposed Satellite Liquor Store from existing Liquor Store(s);

(c) Community proximity of the proposed Satellite Liquor Store to the Pilot Program Agent's Primary Liquor Store;

(d) Sales volume of the Pilot Program Agent's primary Liquor Store;

(e) Anticipated ability of the Pilot Satellite Liquor Store to accommodate seasonal, fluctuating demand (through operating days/hours, product mix, etc);

(f) Size of Pilot Satellite Liquor Store, including retail floor space and storage space. A Pilot Satellite Liquor Store may carry no more than 50 percent of the products carried in the Primary Liquor Store, as measured by SKUs;

(g) The ability of the Pilot Program Agent to negotiate acceptable terms for the Satellite Liquor Store location.

(4) Length of Pilot Program Retail Sales Agent Agreements. Each Pilot Program Agent and the Commission will execute a Pilot Program Agent Agreement, the duration of which will not exceed three years from the effective date of the Pilot Program Agent's appointment at the Pilot Satellite Liquor Store. Six months before the expiration of each Pilot Program Retail Sales Agent Agreement, the performance of the applicable Pilot Liquor Store will be evaluated. The Commission will evaluate performance consistent with section (9)(a)–(d) of this rule, the terms of the applicable Pilot Program Retail Sales Agent Agreement, and the Retail Operations Manual. A process to create a permanent Satellite Liquor Store at the applicable location will be initiated by the Commission if it determines the applicable Pilot Satellite Liquor Store is a success.

(5) All statutes and administrative rules governing retail liquor agents will apply to this Pilot Program, with the following exceptions:

(a) OAR 845-015-0110 Establishment of a Retail Liquor Store;

(b) OAR 845-015-0120 Retail Sales Agent Selection Procedure;

(c) OAR 845-015-0135 Public Opinion on Retail Liquor Store Location;

(d) OAR 845-015-0140 Hours and Days of Operation;

(e) OAR 845-015-0190 Resignation Buy-Out Program for Retail Liquor Agents;

(f) OAR 845-015-0193(1) & (2) Terminating an Agency Agreement;

(g) OAR 845-015-0196 Appointment of a Temporary Agent.

(6) The Retail Operations Manual, including any Pilot Program Appendix, and other relevant Commission policies will apply to the Pilot Program, unless otherwise provided in the Pilot Program Agreement.

(7) All personnel working in the Pilot Satellite Liquor Store must meet all the standards and requirements for liquor store clerks which are required by the Pilot Program Agreement and the Retail Operations Manual.

(8) Pilot Program Agents will provide the Commission with any and all data related to the operation of the Pilot Satellite Liquor Store as specified in the Pilot Program Agreement and the Retail Operations Manual.

(9) Measuring Success of the Pilot Program. Factors the Commission will consider in measuring the success of the Pilot Program include but are not limited to:

(a) Economic viability of the Pilot Program business model for Pilot Program Agents and the Commission;

(b) Increase in total seasonal revenue from liquor sales in the community;

(c) Effects on the public safety of the surrounding community;

(d) Public response to the Satellite Liquor Stores, including customer satisfaction and convenience.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.750

